

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA :

- v. -

OSVALDO FUENTES ROSARIO,
a/k/a "Bori,"

Defendant.

- - - - - x

USDS 08-00000

DOCUMENT

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INDICTMENT

08CRIM 465

2008 MAR 04 PM 10:45 AM 2008

COUNT ONE

The Grand Jury charges:

1. From at least in or about Summer 2004 up to and including in or about December 2006, in the Southern District of New York and elsewhere, OSVALDO FUENTES ROSARIO, a/k/a "Bori," the defendant, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit robbery, as that term is defined in Title 18, United States Code, Section 1951(b)(1), and would and did thereby obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), to wit, FUENTES ROSARIO agreed with others, known and unknown, to commit robberies of victims believed to be in possession of narcotics and narcotics proceeds and proceeds from other types of commercial activity.

Overt Acts

2. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about January 2006, in the vicinity of 196th Street and St. Nicholas Avenue in New York, New York, OSVALDO FUENTES ROSARIO, a/k/a "Bori," and others kidnaped a drug dealer, took the drug dealer's house keys, and stole heroin from the drug dealer's apartment.

b. On or about February 9, 2006, in the vicinity of the Jerome Park Reservoir in the Bronx, New York, FUENTES ROSARIO and others followed a drug dealer in order to kidnap him, but subsequently broke into the drug dealer's unoccupied home and stole multiple kilograms of cocaine and large amounts of United States currency.

c. In or about May 2006, FUENTES ROSARIO and others broke into an apartment in the vicinity of Cooper Street and Seaman Avenue in New York, New York, tied up a female occupant of the apartment, and stole kilograms of cocaine and large amounts of United States currency.

d. On or about November 21, 2006, FUENTES ROSARIO and others kidnaped two male victims from their SUV in the vicinity

of Bailey Avenue in the Bronx, New York, and then stole cocaine from the victims.

(Title 18, United States Code, Section 1951.)

COUNT TWO

The Grand Jury further charges:

3. On or about November 21, 2006, OSVALDO FUENTES ROSARIO, a/k/a "Bori," the defendant, and others known and unknown, unlawfully, willfully, and knowingly did commit robbery, as that term is defined in Title 18, United States Code, Section 1951(b)(1), and did thereby obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), to wit, FUENTES ROSARIO and others known and unknown kidnaped two male victims from their SUV in the vicinity of Bailey Avenue in the Bronx, New York, and then stole cocaine from the victims.

(Title 18, United States Code, Sections 1951 and 2.)

COUNT THREE

The Grand Jury further charges:

4. On or about November 21, 2006, OSVALDO FUENTES ROSARIO, a/k/a "Bori," the defendant, and others known and unknown, unlawfully, willfully, and knowingly, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, namely, the robbery charged in

Count Two of this Indictment, did use and carry firearms, and, in furtherance of such crime, did possess firearms, and did aid and abet the use, carrying, and possession of firearms.

(Title 18, United States Code, Sections 924(c)(1)(A)(i) and 2.)

COUNT FOUR

The Grand Jury further charges:

5. From at least in or about Summer 2004 up to and including in or about December 2006, in the Southern District of New York and elsewhere, OSVALDO FUENTES ROSARIO, a/k/a "Bori," the defendant, and others known and unknown, unlawfully, intentionally, and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

6. It was a part and an object of said conspiracy that OSVALDO FUENTES ROSARIO, a/k/a "Bori," the defendant, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, to wit, 5 kilograms and more of mixtures and substances containing a detectable amount of cocaine, in violation of Sections 812, 841(a)(1), and 841(b)(1)(A) of Title 21, United States Code.

7. It was a further part and an object of said conspiracy that OSVALDO FUENTES ROSARIO, a/k/a "Bori," the defendant, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, to

wit, 1 kilogram and more of mixtures and substances containing a detectable amount of heroin, in violation of Sections 812, 841(a)(1), and 841(b)(1)(A) of Title 21, United States Code.

Overt Acts

8. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about January 2006, in the vicinity of 196th Street and St. Nicholas Avenue in New York, New York, OSVALDO FUENTES ROSARIO, a/k/a "Bori," the defendant, and others kidnaped a drug dealer, took the drug dealer's house keys, and stole heroin from the drug dealer's apartment.

b. On or about February 9, 2006, in the vicinity of the Jerome Park Reservoir in the Bronx, New York, FUENTES ROSARIO and others followed a drug dealer in order to kidnap him, but subsequently broke into the drug dealer's unoccupied home and stole multiple kilograms of cocaine and large amounts of United States currency.

c. In or about May 2006, FUENTES ROSARIO and others broke into an apartment in the vicinity of Cooper Street and Seaman Avenue in New York, New York, tied up a female occupant of the apartment, and stole kilograms of cocaine and large amounts of United States currency.

d. On or about November 21, 2006, FUENTES ROSARIO and others kidnaped two male victims from their SUV in the vicinity of Bailey Avenue in the Bronx, New York, and then stole cocaine from the victims.

(Title 21, United States Code, Section 846.)

COUNT FIVE

The Grand Jury further charges:

9. From at least in or about Summer 2004 up to and including in or about December 2006, in the Southern District of New York and elsewhere, OSVALDO FUENTES ROSARIO, a/k/a "Bori," the defendant, and others known and unknown, unlawfully, willfully, and knowingly, during and in relation to a narcotics trafficking crime for which he may be prosecuted in a court of the United States, namely, the conspiracy to distribute and possess with intent to distribute narcotics charged in Count Four of this Indictment, did use and carry firearms, and, in furtherance of such crime, did possess firearms, and did aid and abet the use, carrying, and possession of firearms.

(Title 18, United States Code, Sections 924(c)(1)(A)(i), 924(c)(1)(C)(i) and 2.)

FORFEITURE ALLEGATION

10. As the result of committing the offenses in violation of Title 18, United States Code, Section 1951, alleged in Counts One and Two of this Indictment, OSVALDO FUENTES ROSARIO, a/k/a "Bori," the defendant, shall forfeit to the United

States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense, for which the defendants are jointly and severally liable.

Substitute Asset Provision

11. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b) and 21 U.S.C. § 853(p), to seek forfeiture of any other

property of said defendant up to the value of the above
forfeitable property.

(Title 18, United States Code, Section 981,
Title 28, United States Code, Section 2461, and
Title 18, United States Code, Section 1951.)

Michael J. Garcia
FOREPERSON

Michael J. Garcia
MICHAEL J. GARCIA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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INFORMATION

08 Cr. ____ (____)

(18 U.S.C. §§ 1951 & 2;
18 U.S.C. 924(c)(1)(A)(iii) & (ii) & 2;
21 U.S.C. §§ 846, 812, 841(a)(1), &
841(b)(1)(A).)

MICHAEL J. GARCIA
United States Attorney.

A TRUE BILL

John White
Foreperson.

Filed. Judgment, assigned to
Judge Baer

ELLIS S.